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Raised Bill 1136
Public Hearing: 3-20-09

TO: MEMBERS OF THE JUDICIARY COMMITTEE
FROM: SILVER, GOLUB & TEITELL
DATE: MARCH 20, 2009

RE: SUPPORT OF RAISED BILL 1136 – AN ACT CONCERNING CLAIMS
AGAINST THE STATE

We support bill 1136, and respectfully contend that the bill should be passed.

The proposed change to Chapter 53 of the Connecticut General Statutes, Claims Against The State, allows Claims Commissioners to re-open dismissed cases when they deem it “just and equitable.” This will apply to all claims currently pending before the Claims Commissioner and all claims where dismissals have already been vacated. It will allow the Claims Commissioner to use his own discretion in deciding what is fair and appropriate.

The Claims Commissioner has always acted as if this was the rule, and the General Assembly and Attorney General have always been aware of this. The Claims Commissioner has been able to go back on his own decisions when new facts have been presented that call into question the fairness of preventing a claim from going forward. This has been an effective practice, ensuring that justice is not hindered by rigid and unresponsive rules and technicalities. However, because this is not explicitly stated in the wording of the Connecticut General Statutes, any vacating of a dismissal by a Claims Commissioner, regardless of the facts surrounding the claim, is at risk of being overturned by a Superior Court judge on the grounds that the Claims Commissioner does not have the proper authority to re-open the claim.

This question of jurisdiction is not an issue that should decide the merit of a claim. Clarifying this part of the Connecticut General Statutes will make it clear that the General Assembly has always intended to allow the Claims Commissioner to continue to exercise his discretion in reopening cases he has dismissed, when “just and equity” require it.

This revision would not alter the law as it has existed; it would simply prevent a Superior Court judge’s interpretation of the statute from changing the way the Claims Commissioner has been operating, a change that would deprive many Claimants from a hearing on the merits. Granting the Claims Commissioner the discretion to vacate his own prior dismissals when he considers it “just and equitable” will help the justice system better serve the people it is intended to serve.

WE RESPECTFULLY URGE YOU TO SUPPORT RAISED BILL 1136. Thank you.